



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Martin F. Beny et al.  
Serial No. : 09/447,023  
Filed : November 22, 1999  
Title : CRANBERRY PROCESSES AND PRODUCTS

Art Unit : 1761  
Examiner : Helen Pratt

Commissioner for Patents  
Washington, D.C. 20231

DECLARATION UNDER 37 CFR §1.131

1. I am an inventor on the above-captioned patent application.
2. Attached as Exhibits A and B are copies of documents dated prior to February 17, 1998, the publication date of JP 10042824. (Dates have been redacted from these copies.) These documents establish possession of a beverage including a low anthocyanin cranberry juice component.
3. Exhibit A is a report describing analysis of low anthocyanin cranberry juice. The report was prepared for Martin F. Berry and Katie G. Haight, both named inventors on the present application. The report indicates analysis of three juice samples, which were logged at Ocean Spray notebook number 164, page 29. Two samples are designated "w" for white from fruit designated as "White Fedex To" (Tomah) and "White Tomah". The report provides an anthocyanin profile on these samples, determined by HPLC, and converted to 7.5 Brix which indicates low anthocyanin juice. (The report also includes data on total anthocyanins determined by absorption but the dilution factor was not recorded and this data is not relied on here.)  
As a result, the report demonstrates possession of cranberry juice having low anthocyanin content.
4. Exhibit B is a copy of Ocean Spray notebook number 164, page 29. This notebook was kept by Katherine G. Haight, a named inventor on the present application. The

## CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

9 October 2001

Date of Deposit

Diane C. Brown

Signature

Diane C. Brown

Typed or Printed Name of Person Signing Certificate

RECEIVED  
OCT 17 2001  
TC 1700

Applicant : Martin F. Berry et al.  
Serial No. : 09/447,023  
Filed : November 22, 1999  
Page : 2

Attorney's Docket No.: 00-114-0-46001

notebook page indicates receipt of the low anthocyanin cranberries ("Fedex from Tomah"), pressing juice from the berries, and formulation of a beverage including the juice.

As a result, the notebook page demonstrates possession of a beverage including low anthocyanin cranberry juice.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 9/26/01

Martin F. Berry  
Martin F. Berry

Date: 9/26/01

Katherine G. Haight  
Katherine G. Haight

Date: 9/26/01

Donald C. Weber  
Donald C. Weber

Date: 9/26/01

Harold L. Mantius  
Harold L. Mantius

Date: 9/26/01

Luther H. Leake  
Luther H. Leake

Date: 9/26/01

Rodney A. Series  
Rodney A. Series

## ANALYTICAL REQUEST FORM

SAMPLE/NOTEBOOK 623-13

MPP-BR/NMV ANALYSIS

SAMPLE ID Crystal Samples

DATE:

TIME TRAC CODE: NEW PROCESS EXPLORATORY PL0001

REQUESTOR: MARTIN F. BERRY [7254]/ KATIE HAIGHT [7103]

DATE REQUIRE

ANALYSIS	Notebook #	0164-29	0164-29	0164-29					
		W	W	C					
FRUIT PROCESS	AS IS	AS IS	AS IS						
	White Faded Tom	White Tomato	Green Tomato		White Faded Tom	White Tomato	Green Tomato		
	Juice	Juice	Juice		Juice	Juice	Juice		
These columns reported at straight brix					These columns corrected to 7.5 brix				
MOISTURE (Vacuum)									
FAT (AH)									
PROTEIN									
ASH									
FIBER									
JUICE °BRIX	X	6.87	6.76	7.41					
SUGAR PROFILE	X								
SUCROSE %	X		0.1			0.0	0.2	0.0	
DEXTROSE %	X	3.1	2.7	3.3		3.3	3.0	3.4	
FRUCTOSE %	X	0.7	0.3	0.8		0.7	0.4	0.6	
ACIDITY %TA	X	2.4	2.6	2.4		2.6	2.8	2.4	
pH	X	2.5	2.5	2.4					
ACID PROFILE	X								
QUINIC %	X	1.08	1.29	1.34		1.18	1.43	1.36	
MALIC %	X	0.53	0.68	0.96		0.58	0.73	0.97	
CITRIC %	X	1.92	1.86	1.63		2.10	2.06	1.85	
BENZOIC PPM	X	73.8	76.1	109.1		80.6	84.4	110.4	
TOT. ANTHOCYANINS	X	0.030	0.090	1.980	MG/100ML				
ANTHOCYANIN PROFIL	X	ALL ANTHOCYANINS QUANTITATED AS CYANADIN-3-GALACTOSIDE							
cyanadin-3-galactoside		1.6	2.8	51.4	PPM		1.7	3.1	52.0
cyanadin-3-glucoside		B.Q.L.	0.2	3.1	PPM		0.0	0.2	3.1
cy3nadin-3-arabinoside		1.5	2.8	46.5	PPM		1.6	3.1	47.1
peonidine-3-galactosid		1.1	2.3	55.2	PPM		1.2	2.6	55.0
peonidine-3-glucoside		0.3	0.6	7.9	PPM		0.3	0.6	8.0
peonidine-3-arabinosid		0.7	1.4	23.9	PPM		0.8	1.6	24.2
		B.Q.L. = BELOW QUANTITATION LIMIT							
TANNINS									
PHENOLICS									
FLAVOR CMPDS PROFILE									
AROMA CMPDS PROFILE									
UTI FACTOR									
MINERALS									
CALCIUM MG/100M	X	4.47	4.36	4.62		4.88	4.84	4.68	
POTASSIU MG/100M	X	84.70	99.60	84.30		103.38	110.50	85.32	

TITLE \_\_\_\_\_

Project No. \_\_\_\_\_

Book No. \_\_\_\_\_

29

From Page No. \_\_\_\_\_

- White Cranberries FedEx from Taman  
thawed, sliced & pressed 3 min x 3

- Control → white "Crystal" Processing (#1 4:30pm)  
thawed, sliced & pressed

Pressing - Control = 3 min x 3 = 9 $\frac{1}{2}$  min  
White = 3 min x 3 + several short press = 13 min

Label

White FedEx	= 7.2° B Juice	WA Bev. 12.4° B
" #1 4:30	6.7° B Juice	WB Bev. 12.6° B
Control #1 4:30	7.3° B Juice	WC Bev 12.8° B

Bev. Formula (same as )

270 g raw juice

108 g sucrose

622 g H<sub>2</sub>O

7.0 kg

all hot processed

TA  
5.0 mL TA(g1mL)

21.75 mL H<sub>2</sub>O 2.83

White FedEx Juice

18.95 °P 24.6

Control #1 4:30

18.75 °P 24.4

White #1 4:30

Ferm. Sample 11.1° B reformat - 0.15% EtOH

ID -

Bev. Formula: H<sub>2</sub>O - 691.4 g

JUICE = 187.3 g

Ferm Samples

R. TURK - EtOH

Bev. - 13.4° B

HCS - 173.6 g

#5 3.0 pH

3.07%

Hot Sliced

Ace. 0.44 g

#6 3.4 pH

0.07%

No Control Avail.

Refr. TA -

#4 3.9 pH

21.3%

To Page No. \_\_\_\_\_

Witnessed & Understood by me,

Date

Impressed  
J.J. Sleight

Date

Recognized  
J.J. Sleight